

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WESTERN MICHIGAN**

Bailey Farms, Inc.,

Plaintiff,

v.

Syngenta Seeds, LLC,

Defendant.

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) Civil Action No: 1:19-cv-193
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NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Defendant Syngenta Seeds, LLC hereby removes the state court action captioned *Bailey Farms, Inc. v. Syngenta Seeds, LLC* in the Michigan Circuit Court, 9th Circuit Court, Kalamazoo County, Case No. 18-0370-CB (“the Action”) to the United States District Court for the District of Western Michigan pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. The grounds for removal are:

I. PLEADINGS

1. This is a civil action in which Plaintiff Bailey Farms, Inc. (“Bailey Farms”) alleges that Syngenta Seeds, LLC (“Syngenta”) manufactured and sold Plaintiff SP-6 pollinators that failed to perform as Plaintiff hoped. *See* Plaintiff’s Summons, Proof of Service, and Complaint, attached hereto as Exhibit A.

2. Bailey Farms asserts a claim against Syngenta for breach of implied warranty. (Compl. ¶¶ 14-16).

3. Bailey Farms claims that as a result of the alleged breach that it “incurred hundreds of thousands of dollars in lost profits.” (*Id.* ¶ 13).

4. On February 21, 2019, Bailey Farms served Syngenta with copies of the Summons and Complaint. The Service of Process and the Complaint are attached to this Notice as Exhibit A.

II. REMOVAL IS PROPER IN THIS CASE

A. Removal is Timely.

5. Removal is timely because it was made within 30 days after Syngenta received a copy of the Summons and Complaint (February 21, 2019), and therefore, is timely under 28 U.S.C. § 1446(b). *See* Exhibit A.

B. Diversity Jurisdiction Exists.

6. This Court has diversity jurisdiction over this action under 18 U.S.C. § 1332. The parties have diverse citizenship and the amount in controversy exceeds \$75,000 exclusive of interest and costs.

7. For purposes of diversity of citizenship, a corporation is deemed to be a citizen of both the state of its incorporation and the state where it has its principal place of business. 28 U.S.C. § 1332(c)(1). For purposes of diversity of citizenship, a limited liability company has the citizenship of each of its members. *See Delay v. Rosenthal Collins Grp., LLC*, 585 F.3d 1003, 1005 (6th Cir. 2009).

8. The Complaint alleges that Bailey Farms is a Michigan corporation with its registered office located at 6657 W. “W” Avenue, Schoolcraft, Kalamazoo County, Michigan. (Compl. ¶ 1). Bailey Farms is therefore a citizen of Michigan for purposes of determining diversity.

9. Syngenta Seeds, LLC is a Delaware limited liability company (Compl. ¶ 2), with its principal place of business located at 2001 Butterfield Road Suite 1600 Downers Grove,

IL 60515. Syngenta Seeds, LLC's sole member is Syngenta Corporation. Syngenta Corporation is a Delaware corporation with its principal place of business in Delaware. Syngenta Seeds, LLC is therefore a citizen of Delaware for purposes of determining diversity.

10. The parties are therefore completely diverse—both at the time of this Notice of Removal and at the time Bailey Farms served the state court Complaint.

11. In its Complaint, Bailey Farms alleges that it incurred “hundreds of thousands of dollars in lost profits” as a result of the alleged failure of the SP-6 pollinator plants. (*Id.* ¶ 13).

12. Thus, the Complaint establishes that the amount in controversy exceeds \$75,000 exclusive of costs and interests, as required by 28 U.S.C. § 1332(a). *See National Nail Corp. v. Moore*, 139 F. Supp. 2d 848, 850 (W.D. Mich. 2001) (“The amount in controversy is determined by the allegations in their complaint.”); *see also Spawr v. Encompass Ins. Co.*, 2008 WL 4534411, at *1 (W.D. Mich. Oct. 2, 2008) (“Normally, the amount in controversy is established by the sum claimed by the plaintiff . . .”).

C. Venue and Other Requirements Are Satisfied.

13. The United States District Court for the District of Western Michigan is the appropriate venue for removal of Bailey Farms' state court action, pursuant to 28 U.S.C. § 1441(a), which permits any civil action brought in any state court in which the district courts of the United States have original jurisdiction, to be removed to the district court of the United States for that district and division embracing the place where such action is pending.

14. Pursuant to 28 U.S.C. § 1446(d), Syngenta will promptly file a written notice of this removal with the Michigan Circuit Court, 9th Circuit Court, Kalamazoo County. A Notice of Removal to Adverse Party, together with copies of this Notice of Removal and the Notice of

Filing Notice of Removal, will be promptly served upon Plaintiff's counsel as required by 28 U.S.C. § 1446(d).

15. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served upon Syngenta are attached as Exhibit A.

16. Syngenta reserves the right to amend or supplement this Notice of Removal.

17. Syngenta reserves the right to raise all defenses and objections to Bailey Farms' claims after the action is removed to this Court.

WHEREFORE, Defendant Syngenta Seeds, LLC respectfully removes the Action from the Michigan Circuit Court, 9th Circuit Court, Kalamazoo County, to this Court pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

Date: March 13, 2019

Respectfully submitted:

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